CASES ADJUDGED

IN THE

SUPREME COURT OF THE UNITED STATES

AT

OCTOBER TERM, 1918.

PORTSMOUTH HARBOR LAND & HOTEL COMPANY ET AL. *v.* UNITED STATES.

APPEAL FROM THE COURT OF CLAIMS.

No. 381. Argued May 1, 1919.—Decided May 19, 1919.

Additional discharges of projectiles over part of plaintiff's land, *held* not to involve a taking of property. *Peabody* v. *United States*, 231 U. S. 530.
Applications for remand and for additional findings denied.
53 Ct. Clms. 210, affirmed.

THE case is stated in the opinion.

Mr. John Lowell, with whom *Mr. Frank W. Hackett* was on the brief, for appellants.

Mr. Assistant Attorney General Brown, with whom *Mr. Charles H. Weston* was on the brief, for the United States.

Memorandum opinion by THE CHIEF JUSTICE.

Recovery was sought in the court below from the United States for property taken by it as the result of the alleged firing of guns in a fortification on the coast of Maine and the passing of the projectiles over and across

a portion of the land alleged to have been taken. The court finding that a former case by it decided against the owners and here affirmed (*Peabody* v. *United States*, 231 U. S. 530), for taking of the same land resulting from instances of gun fire resulting from the same fort and guns, was identical with this, except for some occasional subsequent acts of gun fire, held that case to be conclusive of this and rejected the claim on the merits.

Coming to consider this action of the court in the light of the findings by it made, we are constrained to the conclusion that it was right and that no possible difference exists between this and the *Peabody Case*. Before applying this conclusion we say that we find that the record discloses no ground for the applications here made to remand and for additional findings.

Judgment affirmed.